THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12413 OF 2004

DATED: 21-04-2006

BETWEEN

Inder Pal Singh,

S/o. Shanker Singh,

R/o. H.No.166 "C-Class",

Aghapura Charqandil,

Hyderabad.

...PETITIONER

AND

The Vice Chairman & Housing Commissioner,

A.P. Housing Board, M.J. Road, Hyderabad

and another.

...RESPONDNETS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in interfering with his peaceful possession of H.No.166
"C-Class", MCH.No.11-1-47, Aghapura Charqandil, Hyderabad and the land appurtenant thereto and in proposing to demolish the same without initiating any proceedings under the appropriate statute and without issuing any notice as illegal and arbitrary.

Learned counsel for the petitioner submits that the mother of the petitioner was in absolute

possession and enjoyment of the aforementioned residential house over an extent of 67.83 sq. yards and the same was allotted and registered in her favour.

The petitioner's mother in turn transferred the said property in favour of the petitioner by way of Gift Deed dated 22.07.1994 bearing Document No.3088 of 1994. He further submits that in addition to the said property petitioner's family was also in occupation of an extent of 37.17.sq. yards of land, which is contiguous to and in front of the said premises. While so, the officials of the second respondent visited the premises of the petitioner and took measurements of the premises and proclaimed to demolish the entire house without giving any notice.

Admittedly, the said property admeasuring 37.17 sq. yards is not transferred in favour of the petitioner. Therefore, I am of the opinion that the petitioner will have no vested right, title or interest over the said property unless the said property is purchased or regularized in his favour. The only grievance of the petitioner is that without issuing any notice the staff of the second respondent visited the premises of the petitioner in the month of July 2004 and threatened to demolish his house.

I am of the opinion that if any illegal or unauthorized constructions have been made and if any encroachments over and above the said land are held by the petitioner, it is always open for the respondents to take appropriate action by issuing notice pointing out the unauthorized constructions/encroachments but without following due process of law the respondents can neither demolish the premises nor dispossess the petitioner.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 21, 2006

DSK